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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/630,049	07/30/2003	James A. Truc	82800ADAN	8183

7590 06/02/2006

Milton S. Sales  
Patent Legal Staff  
Eastman Kodak Company  
343 State Street  
Rochester, NY 14650-2201

EXAMINER
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MAHONEY, CHRISTOPHER E

ART UNIT	PAPER NUMBER
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2851

DATE MAILED: 06/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

H.F

**Office Action Summary**

Application No.

10/630,049

Applicant(s)

TRUC ET AL.

Examiner

Christopher E. Mahoney

Art Unit

2851

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
 Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 March 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 8,10,11 and 13-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8,10,11 and 13-29 is/are allowed.
- 6) ☒ Claim(s) 30-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>Feb 21, 2006</u> | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

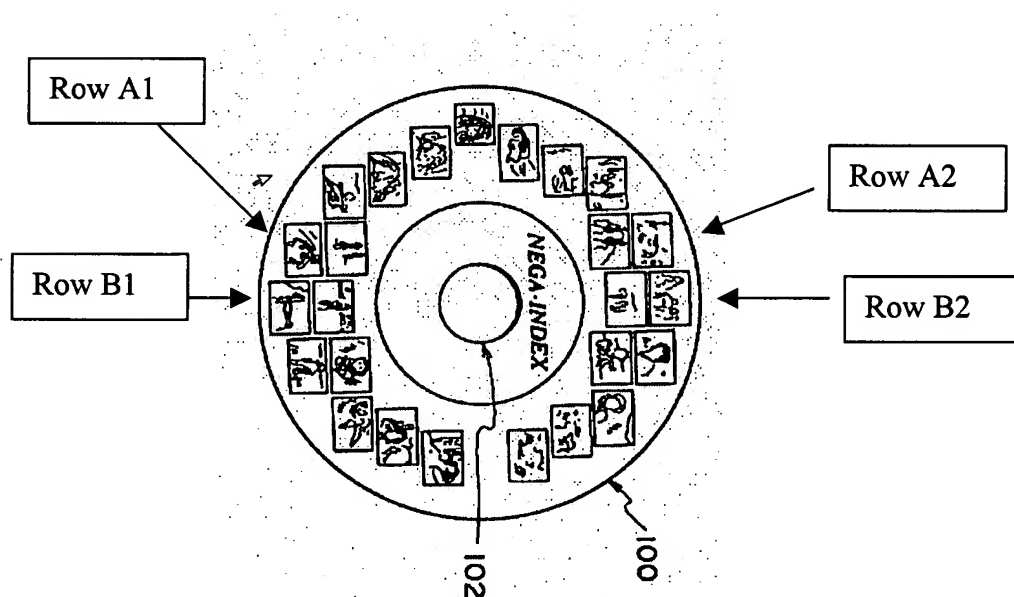
Claims 30-40 are rejected under 35 U.S.C. 102(e) as being anticipated by Kubo (U.S.

Pub. No. 20020122378)

Kubo teaches a method for creating an index print label for a digital image storage disk, the method comprising the steps of: digitizing photographic images to produce digital image data representative of the photographic images', storing (paragraph 34) the digital image data on a first surface of a digital image storage disk 100, such that the photographic images represented by the digital image data stored on the first surface of the digital image storage disk are not readable by a human; and providing (paragraph 47), on a second surface of the digital image storage disk, positive images which correspond to the digital image data, so that each of the positive images directly visually represent the photographic images stored on the digital image storage disk, said positive images being provided on said second surface so as to be viewable by a human while holding the digital image storage disk; wherein: said positive images are provided on said digital image storage disk so as to define a plurality of parallel rows on said disk, at least a first row of said plurality of rows beginning at a first location on said disk and ending at a second location on said disk which is between said first location and a center axis of

Art Unit: 2851

said disk, such that said second location is on a first side of said center axis; and at least a second row of said plurality of rows beginning at a third location on said disk and ending at a fourth location on said disk that is opposite to said third location, such that said fourth location is on a second side of said center axis which is opposite to said first side each of said plurality of rows comprises a plurality of said positive images with a space being defined between each of said positive images each of said rows being provided on said disk in a manner in which each of the spaces between the positive images in one row are offset from-each-of-the spaces between the positive images in another row: and the positive images are provided by printing them directly on a first portion of the second surface of the distal image storage disk and indicia is provided on a second portion of the second surface of the disk. Attached below is an annotated figure 1 from Kubo. As shown the space between figures in row A1 are offset from the space between figures in row B1.



***Allowable Subject Matter***

Claims 8, 10-11 and 13-29 are allowed.

***Response to Arguments***

Applicant's arguments filed March 22, 2006 have been fully considered but they are not persuasive. The applicant argues that the spaces between images in one row are offset from the spaces between images in another row. This is also in Kubo as explained with respect to the annotated drawing of Kubo.

The applicant argues that Kubo does not teach a second area for indicia because the area disclosed by Kubo corresponds to an area in applicant's invention which is not printed upon. The teaching of Kubo still reads on the claim as recited because Kubo has a second area (inner ring with "NEGA-INDEX" printed thereon in figure 1 which is provided with indicia. This inner ring is separate from the portion with the images.


***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher E. Mahoney whose telephone number is (571) 272-2122. The examiner can normally be reached on 8:30AM-5PM, Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Nguyen can be reached on (571) 272-2258. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2851

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Christopher E Mahoney  
Primary Examiner  
Art Unit 2851

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